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09/781,038	02/09/2001	Jeff Nodorft	0-11A	1599

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EXAMINER

MELWANI, DINESH

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 10/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/781,038

Applicant(s)

NODORFT, JEFF

Examiner

Dinesh N Melwani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-50 and 52-64 is/are pending in the application.
- 4a) Of the above claim(s) 14,16-18,39,43-45 and 57-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, 11, 12, 15, 21, 22, 23-27, 29-30, 34-38, 40, 42, 46, 47-50, 53-56, and 61 is/are rejected.
- 7) ☒ Claim(s) 8-10,13,19,20,28,31-33,41 and 52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

Acknowledgment is made of applicant's submission of:

Extension Of Time (3 Mos.) filed on 7/18/03.

Amendment B filed on 7/18/03

The aforementioned items have been noted and officially inserted into the application.

### ***Claim Objections***

1. Claim 6 is objected to because of the following informalities: it is unclear as to what the applicant is intending to claim by reciting, "wherein the latch assembly includes that moves..." For the purposes of examination, it will be assumed that it is the latch member that moves substantially linearly. Appropriate correction is required.
2. Claim 8 is objected to because of the following informalities: Lack of antecedent basis for the sensing member. Appropriate correction is required.
3. Claim 42 is objected to because of the following informalities: typographical error in line 2. The Examiner suggests replacing "members" with --member--. Appropriate correction is required.

### ***Double Patenting***

4. Claim 7 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 6. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim

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to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3-7, 11, 12, 15, 22, 23-27, 29-30, 35-38, 40, 42, 46, 47-50, 54-56, and 61 rejected under 35 U.S.C. 102(b) as being anticipated by Forehand (U.S. Patent No. 5,533,561). Forehand discloses a door-latching system comprising a latch assembly mountable adjacent to the sectional door and being moveable from a maintained release position (i.e., when pin (61) is retracted) to a door-blocking position in response to movement of the sectional door, wherein the latch assembly is able to remain in the maintained release position to allow at least some of the plurality of door panels to travel past the latch assembly, and in response to further movement of the plurality of door panels, the latch assembly subsequently moves to the door-blocking position to obstruct movement of door panels (see col. 5, lines 35-67), and a traveling member (95) mounted to the plurality of door panels, such that the traveling member is able to engage the latch assembly as the plurality of door panels move, wherein the traveling member engaging the latch assembly moves the latch assembly from a maintained release position to the door-blocking position. In regards to claims 3, 24, and 47, while in the door-blocking position, the latch assembly obstructs downward movement of the plurality of door panels by engaging a guide

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roller associated with the sectional door, see col. 5, lines 55-67. In regards to claims 4, 25, and 48, Forehand further comprises a releasing member (79) coupled to the latch assembly, such that the releasing member moves the latch assembly from the door-blocking position to the maintained release position upon manual manipulation of the releasing member, see col. 6, line 67-col. 7, line 18. Regarding claims 5, 26, and 49, Forehand further comprises a pliable elongated member (81) coupled to the latch assembly, wherein a manual manipulation of the releasing member includes manually pulling the pliable elongated member. As it concerns claims 6, 7, 27, and 42, Forehand's latch assembly includes a latch member (61) that moves substantially linearly between the maintained release position and the door-blocking position. In regards to claim 11, Forehand's assembly includes an actuating member (i.e., plunger (67)) that moves the latch assembly between its maintained release position and its door-blocking position. Regarding claims 12, 29, and 40, Forehand's plunger (67) is pivotally mounted within the latching assembly. As it concerns claims 15, 30, and 50, Forehand's latch assembly includes a sensing member (85) that sense the open position of the plurality of door panels, wherein the latch assembly moves between the maintained release position and the door-blocking position in response to the sensing member that the plurality of door panels has reached the open position. In regards to claims 22, 54, and 55, the plurality of door panels upon moving from the closed position to the open position exerts a motive force, via actuator (67), that moves the latch assembly from the maintained release position to the door-blocking position.

As it concerns claims 35-37 and 56, Forehand discloses a method of operating a sectional door that includes a plurality of door panels moveable between an open position and a closed position, and a latch assembly moveable between a release position and a door-blocking position,

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comprising: maintaining the latch assembly at its release position while the plurality of door panels move from their closed position toward their open position; and subsequently moving the latch assembly to its door-blocking position in response to a traveling member engaging the latch assembly as the plurality of door panels move from the closed position to the open position as set forth above in paragraph 5 of this Office Action. In regards to claim 36, latch member (61) moves linearly between the release position and the door-blocking position. Regarding claim 37, Forehand further includes the steps of sensing that the door is in the open position, and responsively moving the latch assembly to the door-blocking position.

In regards to claim 38, Forehand discloses a latch assembly as set forth above in paragraph 5 of this Office Action and comprising a sensing member (85, 87) and an actuating member (67) that moves the latch member between the release position and the door-blocking position in response to the sensing member having sensed that the plurality of door panels have reached the open position.

In regards to claim 61, Forehand's latch assembly engages a guide roller (31) associated with the sectional door, see Fig. 3. Regarding claim 62, Forehand further discloses the method further comprising releasing the sectional door after the step of latching the sectional door, whereby the plurality of door panels are subsequently allowed to move from the open position to the closed position, see col. 5, lines 55-67. As it concerns claim 63, the method further comprises that the movement of the plurality of door panels from the closed position to the open position provides a motive force for actuating the latch assembly. Regarding claim 64, the method further including the step of maintaining the latch assembly in the release position until the sensing step as set forth above.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 21, 34, and 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Forehand (U.S. Patent No. 5,533,561). Forehand discloses a latch assembly mountable adjacent to the sectional door, wherein the assembly engages the traveling member in response to the plurality of door panels moving to the closed position, thereby inhibiting the door panels from moving to the closed position. Forehand fails to disclose a second latching assembly that functions as the first. However, the applicant is reminded that duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

***Allowable Subject Matter***

9. Claims 8, 9, 10, 13, 19, 20, 28, 31, 32, 33, 41, and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: Claims 8, 9, 10, 13, 19, 20, 28, 31, 32, 33, 41, and 52 are patentable over the prior art of record because the teachings of the references taken as a whole do not show or render obvious the

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combination set forth, including a sensing member that is the actuating member being pivotally mounted within the latch assembly, a traveling member pivotally mounted within the latch assembly; wherein the traveling member is able to engage the actuating member.

***Response to Arguments***

11. Applicant's arguments, see page 12-13, filed 7/18/2003, with respect to Wolf *et al.* (U.S. Patent No. 2,703,247) and Lambert (U.S. Patent No. 3,258,062) have been fully considered and are persuasive. The rejections have been withdrawn.

12. Applicant's arguments filed 7/18/03 with respect to Forehand (U.S. Patent No. 5,533,561) have been fully considered but they are not persuasive.

13. Applicant's arguments with respect to Forehand have been considered but are moot in view of the new ground(s) of rejection.

14. The Examiner asserts that the Forehand latch assembly, as disclosed, includes sensors 85 and 87. The Forehand reference secures the door in a closed position from moving to an open position, and also secures the door while in an open position from moving to a closed position, see col. 5, lines 55-67.

15. The Applicant contends that the Forehand reference does not disclose a traveling member that is able to engage the latch assembly as the plurality of door panels move from the closed position to the open position and wherein the traveling member engages the latch assembly and moves the latch assembly from the maintained release position to the door-blocking position. The Examiner respectfully disagrees. Forehand discloses a traveling member that engages the latch assembly (i.e., when switches 85 and 87 are closed) as the plurality of door panels move



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from the closed position to the open position. The traveling member engages the latch assembly and it is this engagement that consequentially moves the latch assembly from the maintained release position to the door-blocking position.

### *Conclusion*

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh N Melwani whose telephone number is 703-305-4546. The examiner can normally be reached on M-F, 8:30-6 except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4115.

DNM



ROBERT J. SANDY  
PRIMARY EXAMINER